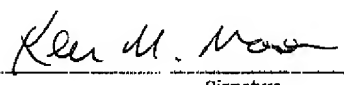


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PTO/SB/33 (07-05)

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PRE-APPEAL BRIEF REQUEST FOR REVIEW		Docket Number (Optional)	
I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to "Mail Stop AF, Commissioner for Patents, P O Box 1450 Alexandria VA 22313-1450" [37 CFR 1.8(a)] on _____ Signature _____ Typed or printed name _____		Application Number	Filed
		10/751,376	01/05/04
		First Named Inventor	
		Gerrit W. Hiddink	
		Art Unit	Examiner
		2618	Nguyen T. Vo
Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.			
This request is being filed with a notice of appeal.			
The review is requested for the reason(s) stated on the attached sheet(s). Note: No more than five (5) pages may be provided.			
I am the			
<input type="checkbox"/> applicant/inventor		Signature	
<input type="checkbox"/> assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed (Form PTO/SB/96)		Kevin M. Mason	
		Typed or printed name	
<input checked="" type="checkbox"/> attorney or agent of record Registration number 36,597		(203) 255-6560	
		Telephone number	
<input type="checkbox"/> attorney or agent acting under 37 CFR 1.34 Registration number if acting under 37 CFR 1.34 _____		August 14, 2007	
		Date	
NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.			
<input type="checkbox"/> *Total of _____ forms are submitted.			

This collection of information is required by 35 U.S.C. 132. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11, 1.14 and 41.6. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop AF, Commissioner for Patents, P O Box 1450, Alexandria, VA 22313-1450

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

5 Patent Application

Applicant(s): Gerrit W Hiddink

Case: 2

Serial No : 10/751,376

10 Filing Date: January 5, 2004

Group: 2618

Examiner: Nguyen Thanh Vo

15 Title: Predictive Method and Apparatus for Antenna Selection in a Wireless
Communication System

MEMORANDUM IN SUPPORT OF
PRE-APPEAL BRIEF REQUEST FOR REVIEW

Mail Stop AF

25 Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

30 Sir:

In response to the outstanding final Office Action, dated May 15, 2007, Applicant submits this Pre-Appeal Brief. The present invention and prior art have been summarized in Applicant's prior responses.

STATEMENT OF GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

The present application was filed on January 5, 2004 with claims 1 through 25. Claim 12 was cancelled in the Amendment And Response to Office Action dated October 12, 2006, and claims 8-10 and 19-21 were cancelled in the Amendment And Response to Office Action dated April 22, 2007. Claims 1-7, 11, 13-18, and 22-25 are presently pending in the above-identified patent application. Claims 1-4, 6-7, 11, 13-16, 18, and 22-24 are rejected under

35 U.S.C. §102(b) as being anticipated by Crawford (United States Patent Publication Number 2003/0002471 A1), and claims 5, 7, and 25 are rejected under 35 U.S.C. §103(a) as being unpatentable over Crawford.

5
ARGUMENTS

Independent Claims 1, 13 and 23

Independent claims 1, 13, and 23 are rejected under 35 U.S.C. §102(b) as being anticipated by Crawford. Regarding claim 1, the Examiner asserts that Crawford discloses a predictive antenna selector that evaluates a signal quality of each of said plurality of antennas based on a weighted schedule (see, paragraphs [0155], [0156], [0163], and [0165] which clearly
10 discloses that an antenna which has poor signal quality during a previous interval will not be scheduled to be evaluated in the next interval; since the schedule for each antenna is not fixed, it reads on weighted schedule as claimed).

Applicant notes that a “weight” is defined as a “factor assigned to a number in a
15 computation, as in determining an average, to make the number's effect on the computation reflect its importance” (See, dictionary.com.) In the text cited by the Examiner, Crawford teaches that,

as an example, assume that $L=5$ receive branches are available. This means that there are a total of $5*4/2=10$ possible chi values that need to be
20 considered. Assume further that the best 6 chi terms are (in descending order of quality): $\lambda_{1,2}$, $\lambda_{2,3}$, $\lambda_{1,4}$, $\lambda_{2,5}$, $\lambda_{4,5}$ and $\lambda_{1,5}$. During the next opportunity to evaluate the receiver branch selection metrics, *the last two chi terms ($\lambda_{4,5}$, and $\lambda_{1,5}$) are dropped and two of the remaining pair possibilities are examined instead. $\lambda_{1,3}$, $\lambda_{2,4}$, $\lambda_{3,4}$ and $\lambda_{3,5}$*

Thus, if there are $L=6$ antennas available, the diversity antenna selection can be based on 4 antennas' measurements (i.e., 6 chi terms) and then the remaining pairs are swapped with the other 2 worst antennas for the next diversity antenna selection performed using subsequent received bursts, again,
25 either later in the same frame or in the next MAC frame.

(Paragraph [0155]-[0156]; emphasis added.)
30

Crawford does *not*, however, disclose or suggest “weights,” and does *not* disclose
or suggest that the signal quality of each of a plurality of antennas are evaluated based on a weighted schedule. Independent claims 1, 13, and 23 require that the signal quality of each of a

plurality of antennas are evaluated "based on a *weighted schedule* "

Thus, Crawford does not disclose or suggest that the signal quality of each of a plurality of antennas are evaluated based on a weighted schedule, as required by independent claims 1, 13, and 23

Dependent Claims 2-7, 11, 14-18, 22 and 24-25

Dependent claims 2-4, 6-7, 11, 14-16, 18, 22, and 24 are rejected under 35 U.S.C. §102(b) as being anticipated by Crawford, and claims 5, 17, and 25 are rejected under 35 U.S.C. §103(a) as being unpatentable over Crawford.

Claims 2-7 and 11, claims 14-18 and 22, and claims 24-25 are dependent on independent claims 1, 13, and 23, respectively, and are therefore patentably distinguished over Crawford because of their dependency from independent claims 1, 13, and 23 for the reasons set forth above, as well as other elements these claims add in combination to their base claim.

All of the pending claims, i e , claims 1-7, 11, 13-18, and 22-25, are in condition for allowance and such favorable action is earnestly solicited.

If any outstanding issues remain, or if the Examiner has any further suggestions for expediting allowance of this application, the Examiner is invited to contact the undersigned at the telephone number indicated below

The Examiner's attention to this matter is appreciated

Respectfully submitted,



Date: August 14, 2007

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